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EXAMINER

ELISCA, PIERRE E

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/487,978	Applicant(s) Charles Eric, Hunter et al.
Examiner Pierre E. Elisca	Art Unit 3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Apr 1, 2003

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4) Claim(s) 3, 5-15, 17-24, and 26-51 is/are pending in the application.

4a) Of the above, claim(s) none is/are withdrawn from consideration.

5) Claim(s) 40 is/are allowed.

6) Claim(s) 3, 5-15, 17-24, ~~and 26-39~~, And 41-51 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 14

4) Interview Summary (PTO-413) Paper No(s). _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

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DETAILED ACTION

RESPONSE TO AMENDMENT

1. This Office action is in response to Applicant's Request for RCE filed on 04/01/2003.
2. Claims 1, 2, 4, 16, and 25 are canceled, and claims 3, 5-15, 17-24, and 26-51 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 5-15, 17-24, and 26-51 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kleiman (U.S. Pat. No. 5,959,945) in view of Seth-Smith et al. (U.S. Pat. No. 4,829,569).

As per claims 3, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Kleiman substantially discloses the claimed system for distributing music to local, electronic jukeboxes see., abstract, lines 1 and 2 (which is seen to read on Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

a data transmission system blanket transmitting a plurality of music selections (**this limitation is disclosed by Kleiman in the abstract, lines 5-9, col 5, lines 60-64, col 2, lines 40-65, specifically**

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wherein it is stated that “a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu”;

a plurality of user stations at dispersed customer locations for receiving the transmitted music selections, the user stations including means for a customer to select and store one or more of the received music selections, and a recording device for permanently recording one or more of the stored music selections (**this limitation is disclosed by Kleiman in the abstract, lines 9-14, col 3, lines 13-52, specifically wherein it is stated that “the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously”, and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs**);

a communications link between each customer household and the central controller system to verify to the controller system when the stored music selections have been permanently recorded (**this limitation is disclosed by kleiman in the abstract, lines 5-17, col 3, lines 13-52, specifically wherein it is stated that “a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download (download or record) the music”, please note that the central storage location is readable as**

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a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes, please also note that since the central storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can verify when music selection has been recorded or download or copy);

a central controller system (see., col 5, lines col 6, lines 22-40, specifically central storage location or central controller);

a billing system associated with the central controller system to bill customer locations for the permanently recorded music selections (this limitation is disclosed by Kleiman in col 5, lines 16-28, specifically wherein it is stated “a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing or pricing) for services from the central location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukeboxes for the music selection). Kleiman further discloses identifies the time of transmission of the music (see., abstract, col 2, lines 48-60, specifically wherein it is stated that the jukebox monitors and stored information regarding the number of times each songs has been played).

It is noted that Kleiman does not explicitly disclose Applicant's newly added limitation of an anti-piracy for weaving or ID tag (or ID or header code) in the recorded music to identify the customer at which the recording is made. However, Seth-Smith discloses a subscription television (or audio

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or video or music) system in which an individual message can be sent to an individual user, but in which the individual is enabled to receive encrypt/decrypt (or ID tag or header code) message via **satellite** 20 or geographically remote (see., fig 1, col 6, lines 30-64), which is equivalent to the limitation detailed above wherein said an ID tag or ID in the record music to identify the customer at which the recording is made.

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of **Kleiman** by including the encrypted/decrypted message or audio or music taught by **Seth-Smith** because such modification would provide the music distribution of **Kleiman** with the advantage of having an individual ID for customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

As per claims 15, 17, 18, 19, 20, 21, 22, 23, Kleiman substantially discloses the claimed system for distributing music to local, electronic jukeboxes see., abstract, lines 1 and 2 (which is seen to read on Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

transmitting a plurality of music selections (**this limitation is disclosed by Kleiman in the abstract, lines 5-9, col 5, lines 60-64, col 2, lines 40-65, specifically wherein it is stated that " a jukebox (or customer) selectively requests the transmission of songs from the central storage location**

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using a variety of communication means based upon usage data with respect to songs and the menu");

using a plurality of user stations at dispersed customer locations, to receive and store the transmitted music selections, permanently recording one or more of the stored music selections (this limitation is disclosed by Kleiman in the abstract, lines 9-14, col 3, lines 13-52, specifically wherein it is stated that "the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously", and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs);

using a communications link between the customer locations and a central controller system to verify to the controller system when the music selections have been permanently recorded (this limitation is disclosed by kleiman in the abstract, lines 5-17, col 3, lines 13-52, specifically wherein it is stated that " a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download (download or record) the music", please note that the central storage location is readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes, please also note that since the central

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storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can verify when music selection has been recorded or download or copy);

using the central controller system to bill the customer locations for the permanently recorded music selections (this limitation is disclosed by Kleiman in col 5, lines 16-28, col 6, lines 22-40, specifically wherein it is stated “a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing or pricing) for services from the central location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukeboxes for the music selection). Kleiman further discloses identifies the time of transmission of the music (see., abstract, col 2, lines 48-60, specifically wherein it is stated that the jukebox monitors and stored information regarding the number of times each songs has been played).

It is noted that Kleiman does not explicitly disclose Applicant's newly added limitation of an anti-piracy for weaving or ID tag (or ID or header code) in the recorded music to identify the customer at which the recording is made. **However, Seth-Smith** discloses a subscription television (or audio or video or music) system in which an individual message can be sent to an individual user, but in which the individual is enabled to receive encrypt/decrypt (or ID tag or header code) message via **satellite 20** or geographically remote (see., fig 1, col 6, lines 30-64), which is equivalent to the

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limitation detailed above wherein said an ID tag or ID in the record music to identify the customer at which the recording is made.

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of **Kleiman** by including the encrypted/decrypted message or audio or music taught by **Seth-Smith** because such modification would provide the music distribution of **Kleiman** with the advantage of having an individual ID for customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

As per claims 24, 26, 27, 28, 29, 30, 31, 32 and 33, Kleiman substantially discloses the claimed system for distributing music to local, electronic jukeboxes see., abstract, lines 1 and 2 (which is seen to read on Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

a plurality of user stations at dispersed customer locations for receiving the transmitted music selections, each user stations including means for a customer to select and record desired ones of the received music selections, and a recording device for permanently recording one or more of the stored music selections (**this limitation is disclosed by Kleiman in the abstract, lines 9-14, col 3, lines 13-52, specifically wherein it is stated that “the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand.** The central storage location processes the requests and schedules individual requests from each

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jukebox to coordinate transmission of music to multiple locations simultaneously", and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs);

a communications link between each customer locations and the central controller system to verify to the controller system when the selected music selections have been permanently recorded **(this limitation is disclosed by kleiman in the abstract, lines 5-17, col 3, lines 13-52, specifically wherein it is stated that " a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download (download or record) the music", please note that the central storage location is readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes, please also note that since the central storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can verify when music selection has been recorded or download or copy);**

a central controller system **(see., col 5, lines col 6, lines 22-40, specifically central storage location or central controller);**

a billing system to bill customer locations for music selections **that are recorded (this limitation is disclosed by Kleiman in col 5, lines 16-28, specifically wherein it is stated "a secure**

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environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing or pricing) for services from the central location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukeboxes for the music selection). Kleiman further discloses identifies the time of transmission of the music (see., abstract, col 2, lines 48-60, specifically wherein it is stated that the jukebox monitors and stored information regarding the number of times each songs has been played).

It is noted that Kleiman does not explicitly disclose Applicant's newly added limitation of an anti-piracy for weaving or ID tag (or ID or header code) in the recorded music to identify the customer at which the recording is made. **However, Seth-Smith** discloses a subscription television (or audio or video or music) system in which an individual message can be sent to an individual user, but in which the individual is enabled to receive encrypt/decrypt (or ID tag or header code) message via **satellite** 20 or geographically remote (see., fig 1, col 6, lines 30-64), which is equivalent to the limitation detailed above wherein said an ID tag or ID in the record music to identify the customer at which the recording is made.

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of **Kleiman** by including the encrypted/decrypted message or audio or music taught by **Seth-Smith** because such modification would provide the music distribution of **Kleiman** with the advantage of having an individual ID for

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customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

As per claims 34, 35, 36, 37, 38, 39, 43, 46 and 47, Kleiman substantially discloses the claimed system for distributing music to local, electronic jukeboxes see., abstract, lines 1 and 2, col 2, lines 40-65, (which is seen to read on Applicant's claimed invention wherein said a system for distributing music to customer households), comprising:

a transmitter blanket- transmitting a plurality of encoded digital music contents (this limitation is disclosed by Kleiman in the abstract, lines 5-9, col 3, lines 13-52, specifically wherein it is stated that “ a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu”);

a plurality of user stations comprising: a first input terminal receiving a user selection of a transmitted encoded (or encrypt/decrypt music) music content store (this limitation is disclosed by Kleiman in the abstract, lines 9-14, specifically wherein it is stated that “the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously”, and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs, and first input terminal see., fig 1, item 1T1);

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a module receiving and storing the selected transmitted encoded music, an output terminal sending an indication of the user selection or satellite (indication of the user selection or download the music) (this limitation is disclosed by Kleiman in the abstract, lines 9-17, specifically wherein it is stated that “the request can be initiated by the jukebox and can occur automatically based on statistics compiled by the jukebox representing user demand. The central storage location processes the requests and schedules individual requests from each jukebox to coordinate transmission of music to multiple locations simultaneously”, and also col 4, lines 21-31, col 6, lines 22-40, fig 1, ITs, please note that this is the process of downloading the music at the jukebox or customer, and the output device is the process for the central storage location to transmit music to multiple location);

a decoder operable when enabled to decode the stored encoded music content (this limitation is disclosed by Kleiman in the abstract, lines 2-9, col 4, lines 50-59, specifically, wherein it is stated that “ menuing system (or music) is stored in a central storage location);

a second input terminal receiving a key unique to the music content selected by the user to enable the decoder, and output device supplying the decoded music content to the user from the decoder (this limitation is disclosed by kleiman in the abstract, lines 5-17, col 3, lines 13-52, specifically wherein it is stated that “ a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download

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(download or record) the music", please note that the central storage location is readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes, please also note that since the central storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can enable and output the music based on up the user key or with respect to song and the menu or depending on user demand, second input device or IT2);

a central controller connected to the user stations and comprising a first input terminal receiving from a user station an indication of a user selection of a transmitted music content and a first output terminal transmitting to the user station a key unique to the selected music content (see., this limitation is disclosed by kleiman in the abstract, lines 5-17, col 3, lines 13-52, specifically wherein it is stated that " a jukebox (or customer) selectively requests the transmission of songs from the central storage location using a variety of communication means based upon usage data with respect to songs and the menu. The central storage location periodically updates the local jukeboxes with a list of new releases, during which time the jukebox can also download (download or record) the music", please note that the central storage location is readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes, please also note that since the central storage location or central controller periodically updates, processes, and schedules individual

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requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can enable and output the music based on up the user key or with respect to song and the menu or depending on user demand, and the first input device IT1 and the first output device, and the first output device is the process for the central storage location to transmit music to multiple location via satellite);

a billing system associated with the central controller to bill the user stations (this limitation is disclosed by Kleiman in col 5, lines 16-28, specifically wherein it is stated “a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing or pricing) for services from the central location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukeboxes for the music selection). It is obvious to realize that the music must be compressed in order to communication over the satellite link, and it is also obvious that the teaching of Kleiman can provide credit in order to attract customers .

It is noted that Kleiman does not explicitly disclose Applicant's newly added limitation of an ID tag weaving (or ID) in the recorded music to identify the customer at which the recording is made. However, Seth-Smith discloses a subscription television (or audio or video or music) system in which an individual message can be sent to an individual user, but in which the individual is enabled to receive encrypt/decrypt (or ID tag) message via satellite 20 (see., fig 1, col 6, lines 30-64), which is equivalent to the limitation detailed above wherein said an ID tag or ID in the record music to

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identify the customer at which the recording is made). **Seth-Smith also discloses key transmission (see., col 6, lines 40-64, cipher key information).**

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of **Kleiman** by including the encrypted/decrypted message or audio or music taught by **Seth-Smith** because such modification would provide the music distribution of **Kleiman** with the advantage of having an individual ID for customers, the customer can have a library of music to playback in a variety of portable and fixed base units.

As per claims 41 and 42, Kleiman discloses the claimed limitations, wherein the transmitter is a direct broadcast satellite and satellite receiver (see., Fig 1, col 6, lines 22-67).

As per claim 44, Kleiman discloses the claimed limitations, wherein the user stations provide a preview of the stored music content without first requiring a payment from the user (see., abstract, col 4, lines 50-53, specifically wherein it is stated that portion of a hierarchical menu is stored locally at the jukebox, and therefore, the preview of the stored music is readable as the portion of the hierarchical menu that is stored at the jukebox without a payment).

As per claim 45, Kleiman discloses the claimed limitations, wherein the transmits the encoded digital music contents over a channel comprising at least one of DSL, CATV, and the

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internet (see., Fig 1, IT6, which is a digital video or a hybrid -fiber coaxial cable see., col 7, lines 66 and 67, and col 8, lines 1-3 (which is equivalent to the CATV).

As per claims 48-50, Kleiman discloses the claimed limitations wherein the output device comprises a removable-media recording device, CD- drive and CD-ROM (see., col 15, lines 62-67, col 16, lines 1-13, CD-ROM is readable as a CD changer).

ALLOWABLE SUBJECT MATTER

5. Claim 40 is allowed over the prior art of record.

REMARKS

6. In respond to claims 1-51, Applicant argues that the prior art of record do not teach or suggest alone or in combination:

“ a digital ID tag into the recorded music selections to identify the customer household at which the recording is made”. However, this limitation is disclosed by Seth-Smith in col 6, lines 30-64, fig 1, specifically wherein it is stated that a subscription television (or audio or video or music) system in which an individual message can be sent to an individual user, but in which the individual is enabled to receive encrypt/decrypt (or ID tag) message via **satellite 20**. Seth-Smith also discloses a **key transmission (see., col 6, lines 40-64, cipher key information)**. Applicant should duly note that the ID tag (or ID) is readable as a process of encrypting/decrypting music.

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Conclusion

7. EP 0975111 A2 Yamanaka, Yasuhiro

This patent teaches a TV music broadcasting program that is distributed from a distribution apparatus through a ground station and a satellite (see., abstract, col 1, lines 1-40).

8. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

Any response to this action should be mailed to :

Commissioner of Patents of Trademarks

Washington, D. C. 20231

The Official Fax Number For TC-3600 is:

(703) 305-7687

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Pierre Eddy Elisca

Patent Examiner

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